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27777 7590 11/17/2008  
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EXAMINER

PRONE, CHRISTOPHER D

ART UNIT

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3738

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **DETAILED ACTION**

The double patenting rejection is withdrawn because the other action has been abandoned.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-20 and 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox [5480424].

Cox discloses a valve for implantation at a desired location within a mammal, comprising: a flexible sleeve having a proximal end, a distal end and an outside surface; at least one cusp configured to permit blood flow through the at least one cusp in a single direction; at least one ring attached to the outside surface at only the proximal end of the sleeve, the at least one ring being attached to a portion of the sleeve that is not everted; and at least one fastener extending in a direction radially outward with respect to the sleeve. See figure 8 and relevant portions of the specification.

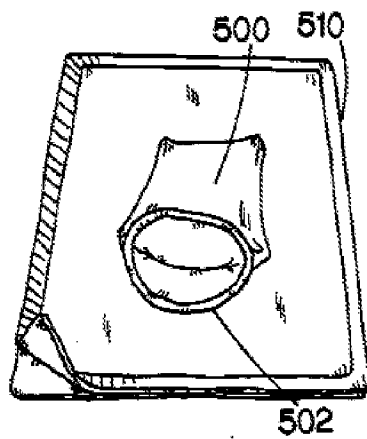


FIG. 8

Claims 17-20 see figure 5.

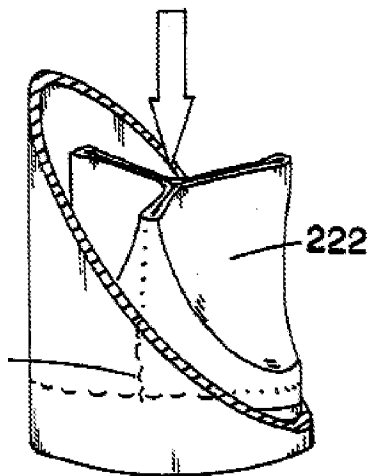


FIG. 5

Claims 30-32, see columns 5-7 of Cox.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox [5480424] as applied to claim 15 above, and further in view of Andersen et al [5840081 or 5411552].

While Cox generally illustrates a basic embodiment for a ring, other configurations are well known in the art as shown, for example, by Andersen et al. To substitute the ring of Andersen et al for the basic structure of Cox without departing from the scope of the function of the ring as well as adding securing benefits would have been obvious to one with ordinary skill in the art as substitution of equivalent elements.

Claims 27-29 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox [5480424] as modified by Andersen et al [5840081 or 5411552] as applied to claim 15 above, and further in view of Piplani et al [5489295]. Piplani et al teaches a ring for securing vascular tubes to the natural tissue comprising a series of compressible sinusoidal legs connected in series forming an annulus. The legs include radially projecting barbs/pins to assist in direct attachment of the tubular device to the adjacent tissue. To add the projecting barbs/pins to the sinusoidal ring of Cox, as modified by Andersen et al to allow for direct securement of the tubular device to the

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adjacent tissue thereby obviating the need for time consuming sutures would have been obvious to one with ordinary skill in the art at the time of the invention thereof.

### ***Response to Arguments***

Applicant's arguments filed 12/17/07 have been fully considered but they are not persuasive. The applicant argues that the ring is not attached to the outside of the sleeve by pointing out that the ring is the bridge between the sleeve and the implantation site. This is proof that it is attached to the outside because it bridges the two elements together.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER D. PRONE whose telephone number is (571)272-6085. The examiner can normally be reached on Monday through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher D Prone  
Examiner  
Art Unit 3738

/CDP/

/Corrine M McDermott/  
Supervisory Patent Examiner, Art Unit 3738

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